

1 KAMALA D. HARRIS
Attorney General of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
4 State Bar No. 101336
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3037
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. *2013-881*

12 **MARY JESSICA MERTINS**
13 **130 Talavera Parkway, #234**
San Antonio, Texas 78232

A C C U S A T I O N

14 **Registered Nurse License No. 668232**
15 **Nurse Practitioner Certificate No. 16285**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about October 26, 2005, the Board of Registered Nursing issued Registered
24 Nurse License Number 668232 to Mary Jessica Mertins (Respondent). The Registered Nurse
25 License expired on April, 30, 2009.

26 3. On or about January 25, 2006, the Board of Registered Nursing issued Nurse
27 Practitioner Certificate Number 16285 to Mary Jessica Mertins (Respondent). The Nurse
28 Practitioner Certificate expired on April 30, 2009.

JURISDICTION

4. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws: All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

6. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

7. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

....

COST RECOVERY

8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Disciplinary Action by Another Health Care Agency –**
5 **Texas Board of Nursing)**

6 9. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), on
7 the grounds of unprofessional conduct in that Respondent was disciplined by the Texas Board of
8 Nursing In the Matter of Family Nurse Practitioner and Registered Nurse License Number
9 617852 issued to Mary Jessica Mertins for violation of Texas Occupations Code sections
10 301.452, subsections (b)(9) (intemperate use of alcohol or drugs that the board determines
11 endanger or could endanger a patient; (b)(10) (unprofessional or dishonorable conduct that in the
12 board's opinion is likely to deceive, defraud or injure a patient or the public); (b)(12) (lack of
13 fitness to practice because of a mental or physical health condition that could result in injury to a
14 patient or the public); and (b)(13) (failure to care adequately for a patient or to conform to the
15 minimum standards of acceptable nursing practice in a manner that exposes a patient or other
16 person unnecessarily to risk of harm). The circumstances are as follows:

17 10. On or about February 9, 2012, while employed by Hereford Regional Medical Center,
18 Hereford, Texas, Respondent was observed exhibiting impaired behavior including, but not
19 limited to, slurred speech, difficulty understanding things that were said to her, and difficulty
20 walking. Respondent returned from her lunch break approximately one and one-half hours late
21 and while in the hospital's parking lot, was observed hitting a curb with her vehicle and getting
22 out of her vehicle while the vehicle was still running. Respondent was also observed ordering the
23 wrong patient medications in addition to having difficulty with other office duties. A for-cause
24 drug screen was given to Respondent on the same date and came back positive for Hydrocodone,
25 Butalbital and Alprazolam.

26 11. On or about April 26, 2012, the Texas Board of Nursing accepted Respondent's
27 voluntary surrender of her Texas Nursing License No. 617852.
28

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Disciplinary Action by Another Health Care Agency –**
3 **Indiana Board of Nursing)**

4 12. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), on
5 the grounds of unprofessional conduct in that Respondent was disciplined by the Indiana State
6 Board of Nursing In the Matter of the License of: Mary Jessica Mertins, R.N., License Number
7 28106715A, for violation of Indiana Code section 25-1-9-4(a)(7) (disciplinary action taken
8 against the practitioner or the practitioner's license to practice in any state or jurisdiction on
9 grounds similar to those under this chapter) based on the Texas Board of Nursing discipline
10 against Respondent's Texas Nursing License, which is more fully detailed in paragraphs 9-11,
11 above, and incorporated here by reference.

12 13. On or about November 13, 2012, Respondent entered into a stipulated settlement with
13 the Indiana State Board of Nursing which placed Respondent's Indiana Nursing License Number
14 28106715A on probation with terms and conditions.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License Number 668232 issued to Mary
19 Jessica Mertins;

20 2. Revoking or suspending Nurse Practitioner Certificate No. 16285 issued to Mary
21 Jessica Mertins;

22 3. Ordering Mary Jessica Mertins to pay the Board of Registered Nursing the reasonable
23 costs of the investigation and enforcement of this case, pursuant to Business and Professions
24 Code section 125.3;

25 ///

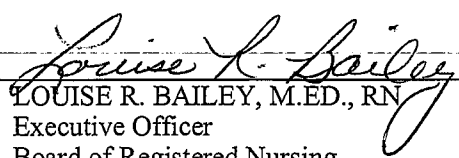
26 ///

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4. Taking such other and further action as deemed necessary and proper.

DATED: APRIL 8, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD201204477
70684707.doc